STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 16,754
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition and Health Access (PATH) denying her application for Food Stamp benefits based upon her ownership of a vehicle with a value determined to be in excess of PATH resource maximums.

FINDINGS OF FACT

1. The petitioner applied for Food Stamps as a single person household in October of 2000. On her application she reported that she owned a 1998 Pontiac Sunfire automobile which she used to commute back and forth to work and for no other purposes except personal errands.

2. PATH determined after looking up her car’s year, make and model in the National Automobile Dealers Association’s "Blue Book" that it had a wholesale value of $6,825. PATH deducted $4,650, the exempted value for a vehicle, from that wholesale amount and obtain a figure of $2,175. That figure represented the total value of her countable assets. As the maximum asset level for Food Stamps is $2,000, the petitioner was notified that she was denied due

to excess resources.

3. The petitioner appealed that decision and a hearing was scheduled for December 14, 2000. At that time, the petitioner argued that the car should not be counted as she still owed $8,832.41 on it and could, therefore, make no money if she sold the vehicle. She also claimed that her car had no accessories and high mileage and probably was not worth the "Blue Book" amount. The hearing was continued in order to allow her to present a statement from an auto dealer as to the car’s actual value.

4. The matter was reset for hearing on January 18, 2001. The petitioner did not attend that hearing and a “no show” letter was mailed to her. She responded to that letter by saying that she did not realize that she had to attend another hearing in January and that she had been unable to obtain any information from the dealer other than the exact same figure from the "Blue Book" which had been used by the Department.

5. In response to this letter, PATH’s attorney agreed to give the petitioner two more weeks to get an appraisal of her car. The attorney wrote to the petitioner on February 16, 2001 telling her that she needed to stop by a dealership and get a written appraisal of her car which should then be returned to her worker within the next couple of weeks. Nothing was heard from the petitioner within the two weeks, or indeed within the two months which have passed since that

time. It must be concluded that the petitioner was unable to obtain a lower appraisal on her vehicle than the one used by the Department and that the Department's appraisal of $6,825, based on the "Blue Book" wholesale value, is correct.

ORDER

The decision of the Department is affirmed.

REASONS

The regulations governing the Food Stamp program require that all resources of a household be evaluated when determining eligibility with certain specific exclusions, among those exclusions being "licensed vehicles" in certain circumstances. F.S.M. § 273.8(e)(3). The method for setting a valuation on vehicles is set forth in detail in the regulations which provide, in pertinent part, as follows:

> The fair market value of licensed automobiles, trucks, and vans will be determined by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies. Publications listing the value of vehicles are usually referred to as "blue books". The State agency shall insure that the blue book used to determine the value of licensed vehicles has been updated within the last 6 months. The National Automobile Dealers Association's (NADA) Used Car Guide Book is a commonly available and frequently updated publication.
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> The State agency shall assign the wholesale value to vehicles. If the term "wholesale value" is not listed in a particular blue book, the State agency shall assign the listed value which is comparable to the wholesale value. The State agency shall not increase the base value of a vehicle by adding the value of low mileage or other factors such as optional equipment.

. . .

F.S.M. § 273.8(h)

The regulations also set forth, in a very detailed way, criteria for counting or excluding the value of a licensed vehicle:

> The value of licensed vehicles shall be excluded or counted as a resource as follows:
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> 1. The entire value of any licensed vehicle shall be excluded if the vehicle is:
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> i used primarily (over 50 percent of the time the vehicle is used) for income producing purposes such as, but not limited to, a taxi, truck, or fishing boat. Licensed vehicles which have previously been used by a self-employed household member engaged in farming but are no longer used over 50 percent of the time in farming because the household member has terminated his/her self-employment from farming shall continue to be excluded as a resource for one year from the date the household member terminated his/her self-employment from farming;
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> ii annually producing income consistent with its fair market value, even if used only on a seasonal basis;
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> iii necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member (or ineligible alien or disqualified person whose resources are being considered available to the household), for example, the vehicle of a traveling sales person or of a migrant farmworker following the work stream;

iv used as the household's home and, therefore, excluded under paragraph (e)(1) of this section; or

v necessary to transport a physically disabled household member (or ineligible alien or disqualified person whose resources are being considered available to the household) regardless of the purpose of such transportation (limited to one vehicle per physically disabled household member). A vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member.

2. The exclusion in parts H.1.i through iv will apply when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.

3. All licensed vehicles not excluded under (h)(1) of this section shall individually be evaluated for fair market value and that portion of the value which exceeds $4,650 shall be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicles. For example, a household owning an automobile with a fair market value of $5,650 shall have $1,000 applied toward its resource level. Any value in excess of $4,650 shall be attributed to the household's resource level, regardless of the amount of the household's investment in the vehicle, and regardless of whether or not the vehicle is used to transport household members to and from employment. Each vehicle shall be appraised individually. The fair market values of two or more vehicles shall not be added together to reach a total fair market value in excess of $4,650.

4. Licensed vehicles shall also be evaluated for their equity value, except for:

   i Vehicles excluded in paragraph (h)(1) of this section;

   ii One licensed vehicle per household, regardless of the use of the vehicle; and

   iii Any other vehicle used to transport household members (or an ineligible alien or disqualified household member whose resources are being considered available to the household) to and from employment or to and from training or education which is preparatory to employment, or to seek employment in compliance with the employment and training criteria. A vehicle customarily used to commute to and from employment shall be covered by this equity exclusion during temporary periods of unemployment. The equity value of licensed vehicles not covered by this exclusion, and of unlicensed vehicles not excluded by paragraphs (e)(3), (4), or (5) of this section shall be attributed toward the household's resource level.

5. In the event a licensed vehicle is assigned both a fair market value in excess of $4,650 and an equity value, only the greater of the two amounts shall be counted as a resource. For example, a second car which is not used by a household member to go to work will be evaluated for both fair market value and for equity value. If the fair market value is $5,000 and the equity value is $1,000, the household shall be credited with only the

   $1,000 equity value, and the $500 excess fair market value will not be counted.

6. In summary, each licensed vehicle shall be handled as follows: First it will be evaluated to determine if it is exempt as an income producer or as a home. If not exempt, it will be evaluated to determine if its fair market value exceeds $4,650. If worth more than $4,650, the portion in excess of $4,650 for each vehicle will be counted as a resource. The vehicle will also be evaluated to see if it

> is equity exempt as the household's only vehicle or necessary for employment reasons. If not equity exempt, the equity value will be counted as a resource. If the vehicle has a countable market value of more than $4,650 and also has a countable equity value, only the greater of the two amounts shall be counted as a resource.
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> F.S.M. § 273.8(h)

Under the above regulations, the petitioner's vehicle cannot be excluded from the resource evaluation process because it is not used primarily to produce income; is not necessary for long distance travel other than daily commuting essential to the employment of a household member; is not used as the household's home; and is not necessary to transport a physically disabled household member. Therefore, the Pontiac Sunfire is subject to an evaluation procedure which begins with a determination of its "wholesale value".

The “wholesale value” of $6,825 found in the NADA blue book is used as the fair market value for this car. The portion of the value which exceeds $4,650, or $2,175 must thereafter be "attributed in full toward the household's resource level, regardless of any encumbrances on the vehicle". The fact that the petitioner may owe money on the car, even an amount in excess of the value, may not be taken into consideration.

The resource limit under the Food Stamp program for households without an elderly member is $2,000. F.S.M. 273.8(b). It must be found that the Department's assessment of the resource value of the petitioner's vehicle is in accordance with its regulations. As such, the Board is bound to affirm the Department's decision. 3 V.S.A. § 3091(d). The petitioner should be aware that the above regulations which often have a harsh effect, were promulgated in order to prevent persons who have "luxury" cars from obtaining Food Stamps even though they cannot convert the value of the vehicle into money to be used for family support. The federal statute and regulations, which have changed little in the past few years, continue to define "luxury" as any value over $4,650. The petitioner may reapply for Food Stamps at any time and can re-establish her resource eligibility if her automobile has depreciated another $175.

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